

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MELISSA WILLIAMS,

Plaintiff,

vs.

CIVIL NO. 11-578 MV/LFG

FOUR CORNERS FAMILY
DENTAL, LLC,

Defendant.

ORDER DENYING UNOPPOSED
FOR STAY OF DISCOVERY

THIS MATTER is before the Court on Plaintiff's Unopposed Motion for Stay of Discovery Pending Decision on Motion to Dismiss [Doc. 29]. Plaintiff requests a stay of all deadlines, including disclosure of expert witnesses and expert reports.

The case is currently assigned to a "Standard" case management track, and pursuant to the district's Civil Justice Expense and Delay Reduction Plan, the Court is obligated to resolve this case within a specified amount of time.

Plaintiff argues that the Court should stay all case management deadlines pending the consideration and disposition of her Motion to Dismiss [Doc. 24]. However, the motion does not seek dismissal of the case with prejudice, but, rather, only dismissal of the litigation in a federal forum, with Plaintiff intending to pursue the same claim in a state court. Thus, a stay of discovery contributes nothing to the final disposition of this case.

Indeed, a stay would be counterproductive. Discovery will provide the parties with information from which they can evaluate the strengths and weaknesses of the case and may encourage private negotiations toward settlement regardless of the forum in which the case is tried.

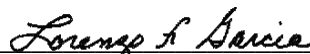
Shared discovery will also assist in presenting the proofs at trial should the case not be settled. A stay of discovery, on the other hand, would significantly delay the disposition in either forum. If the motion to dismiss is denied, the Court would be obligated to revise the case management plan, and under a revised plan, it is unlikely that the Court could meet the target disposition date. The only result of a stay is delay.

The Court concludes that there is no benefit to be achieved by a stay of discovery, and whatever discovery is undertaken at the federal level will be beneficial if the case remains in the federal court or if it is tried in state court. So, too, the parties believe that expert testimony is necessary to prosecute and defend the case, and, therefore, expert reports will be beneficial whether or not the case remains in the federal forum.

Finding no benefit to a stay of discovery, and, indeed, concluding that a stay would make it difficult for the Court to meet its own obligations under the Civil Justice Expense and Delay Reduction Plan, and contribute to a delay in a final disposition, 28 U.S.C. § 471 *et seq.*, the Court DENIES Plaintiff's motion.

The case management deadlines previously imposed remain in full force and effect.

IT IS SO ORDERED.



Lorenzo F. Garcia
United States Magistrate Judge